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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/537,025	03/28/2000	Atsushi Okuyama	1232-4621	5073

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MORGAN & FINNEGAN, L.L.P.  
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NEW YORK, NY 10281-2101

EXAMINER

BRIER, JEFFERY A

ART UNIT PAPER NUMBER

2672

DATE MAILED: 06/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/537,025

Applicant(s)

OKUYAMA ET AL.

Examiner

Jeffery A. Brier

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 35-66 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 35-66 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/27/03 &amp; 8/24/05</u> <b>SAME</b> | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. The amendment filed on 2/24/2005 has been entered.
2. The August 27, 2003 information disclosure document was considered on 3/25/2004, see the IFW file. Therefore, the reference AL on the 2/24/2005 1449 of the information disclosure document has been lined through since it was previously considered.
3. The 2/19/2003 response proposed to amend figure 37 by adding the label Prior Art. The proposal is approved. A replacement sheet showing this change is required.

## **INFORMATION ON HOW TO EFFECT DRAWING CHANGES**

### **Replacement Drawing Sheets**

Drawing changes must be made by presenting replacement sheets which incorporate the desired changes and which comply with 37 CFR 1.84. An explanation of the changes made must be presented either in the drawing amendments section, or remarks, section of the amendment paper. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). A replacement sheet must include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of the amended drawing(s) must not be labeled as "amended." If the changes to the drawing figure(s) are not accepted by the examiner, applicant will be notified of any required corrective action in the next Office action. No further drawing submission will be required, unless applicant is notified.

Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and within the top margin.

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### **Annotated Drawing Sheets**

A marked-up copy of any amended drawing figure, including annotations indicating the changes made, may be submitted or required by the examiner. The annotated drawing sheet(s) must be clearly labeled as "Annotated Sheet" and must be presented in the amendment or remarks section that explains the change(s) to the drawings.

### **Timing of Corrections**

Applicant is required to submit acceptable corrected drawings within the time period set in the Office action. See 37 CFR 1.85(a). Failure to take corrective action within the set period will result in ABANDONMENT of the application.

If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the "Notice of Allowability." Extensions of time may **NOT** be obtained under the provisions of 37 CFR 1.136 for filing the corrected drawings after the mailing of a Notice of Allowability.

In addition to Replacement Sheets containing the corrected drawing figure(s), applicant is required to submit a marked-up copy of each Replacement Sheet including annotations indicating the changes made to the previous version. The marked-up copy must be clearly labeled as "Annotated Sheets" and must be presented in the amendment or remarks section that explains the change(s) to the drawings. See 37 CFR 1.121(d)(1). Failure to timely submit the proposed drawing and marked-up copy will result in the abandonment of the application.

### ***Claim Objections***

4. Claims 40, 41, 42, 50, 51, 52, and 64 are objected to because of the following informalities:

Claims 40, 50, and 64 claim "is an image signal that red or green image signal is attenuated". This seems to need additional language to better claim an image signal that is an attenuated red or green image signal.

Claims 41 and 51 claim "an attenuation differential signal that a differential signal between said first image signal and said second image signal is attenuated". This seems to need additional language to better claim an attenuation differential signal that is an attenuated differential signal ... .

Claims 42 and 52 claim "said attenuation differential signal is a signal that a differential signal between red or green image signal and blue signal is attenuated". This seems to need additional language to better claim said attenuation differential signal is a signal that is a differential signal ... .

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 35-66 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 35:

This claim claims at lines 17-18 "purity of the first color being varied in between a state in which the filter is in the optical path of the first color and a state in which the filter is off the optical path of the first color". The terms "being varied in between a state" render the claim indefinite because the specification places the filter in the path or

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out of the path which does not vary the purity in between the two states which appears to be now claimed. Therefore, the claims do not distinctly claim the described invention.

This claim additionally claims at lines 20-22 "drive circuit changes said second image signal in between the state in which the filter is in the optical path on the first color and the state in which the filter is off the optical path of the first color". It is not clear if applicant is claiming the drive circuit varies the second image signal between the two states or if the drive circuit drives the second image signal one way when the filter is in the optical path and drives the second image signal a different way when the filter is off the optical path.

Claim 45:

This claim claims at lines 20-22 "using a change image signal that said second image signal is changed". The specification does not use the term "change image signal" and the claim does not clearly claim the intended meaning of "change image signal". Also critical language appears to be missing between "using a change image signal that" and "said second image signal is changed".

Claims 41, 51, and 65:

These claims claim "an attenuation differential signal that a differential signal between said first image signal and said second image signal is attenuated". It is not clear if the second image signal is attenuated or if the differential signal is attenuated. Figures 43, 45, and 52 show the first image signal (R or G) and figures 54 and 55 shown the Red image signal attenuated but not the Blue image signal. The claimed differential signal is unclear. The closest figure, figure 45, does not clarify this claim.

The last part of the claims adds the attenuated differential signal to the second image signal (Blue) while the figures do not show this. Clearly applicant has failed to clearly claim the disclosed invention.

Claims 42, 52, and 66:

These claims claim "said attenuation differential signal is a signal that a differential signal between red or green image signal and blue signal is attenuated". It is not clear if the blue signal is attenuated or if the differential signal and blue signal is attenuated. Figures 43, 45, and 52 show the first image signal (R or G) and figures 54 and 55 shown the Red image signal attenuated but not the Blue image signal. The claimed differential signal is unclear. The closest figure, figure 45, does not clarify this claim.

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 35-66 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 35:

This claim claims at lines 17-18 “purity of the first color being varied in between a state in which the filter is in the optical path of the first color and a state in which the filter is off the optical path of the first color”. The terms “being varied in between a state” is claiming varying the purity between the two states which was not conveyed by the application as filed because the specification places the filter in the path or out of the path which does not vary the purity in between the two states.

Claim 45:

This claim claims at lines 20-22 “using a change image signal that said second image signal is changed”. The specification does not use the term “change image signal” and the claim does not clearly claim the intended meaning of “change image signal”. The specification did not convey change image signal to one of ordinary skill in the art.

Claim 55:

The specification discloses a red display element, green display element and a blue display element for modulating respective red, green, and blue light beams. Claim 55 claims one display element to modulate the red, green and blue light beams. The specification did not convey this to one of ordinary skill in the art.

Claim 60:

This claim claims to use the light beam of said at least one color and the light beam of said other one color to form an image of said at least one color when the filter is off the optical path. One color is formed from one color light beam thus when the filter



is off the optical path the light beam of said other color is not used. Figures 43, 45, and 52 show the first image signal (R or G) and figures 54 and 55 shown the Red image signal attenuated and then combined with the Blue image signal to change the Blue image signal. This does not teach using the light beam of said at least one color and the light beam of said other one color to form an image of said at least one color. Therefore the specification teaches using the image signal but not the light beams to form an image of said at least one color when the filter is off the optical path.

Claims 41, 51, and 65:

These claims claim "an attenuation differential signal that a differential signal between said first image signal and said second image signal is attenuated". Figures 43, 45, and 52 show the first image signal (R or G) and figures 54 and 55 shown the Red image signal attenuated and then added to the Blue image signal. The last part of the claims adds the attenuated differential signal to the second image signal (Blue) while the figures do not show this.

9. A prior art rejection cannot be made because the metes and bounds of the claims are not definite and because the specification does not support the claims. Thus, an indication of allowability would be premature. In re Steele, 305 F.2d 859, 134 USPQ 292 (CCPA 1962) (it is improper to rely on speculative assumptions regarding the meaning of a claim and then base a rejection under 35 U.S.C. 103 on these assumptions).

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

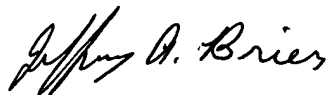
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffery A Brier whose telephone number is (571) 272-7656. The examiner can normally be reached on M-F from 7:00 to 3:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Razavi, can be reached at (571) 272-7664. The fax phone Number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, reading "Jeffery A. Brier". The signature is written in a cursive style with a large, stylized initial "J".

Jeffery A Brier  
Primary Examiner  
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